



Public Meeting on the *O'Donnell* Consent Decree

Misdemeanor Bail Reform in Harris County

Justice Administration Department



Mission

Bringing stakeholders together to facilitate meaningful improvements in the Harris County justice systems that ensure public safety, fairness, equity, efficiency, and accountability so that all Harris County residents can live in safe, healthy, and thriving communities.

Today's Agenda

Program Overview	Director of Justice Administration Department
Progress Update	Federal Court Monitor
	Federal Community Workgroup
	County Attorney's Office
	Sheriff's Office
	County Criminal Courts at Law
Questions & Answers	



Monitoring Pretrial Reform in Harris County

Second Report of the Court-Appointed Monitor

April 28, 2021

Brandon L. Garrett
Duke University School of Law

THE OFFICIAL WEBSITE OF THE
**INDEPENDENT MONITOR FOR THE
ODONNELL V. HARRIS COUNTY DECREE**
REGARDING MISDEMEANOR
BAIL PRACTICES

sites.law.duke.edu/odonnellmonitor



LIBERAL ARTS
TEXAS A&M UNIVERSITY
PUBLIC POLICY RESEARCH INSTITUTE



Our Team

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The portraits on the right show six team members: a man with grey hair in a dark suit, a woman with dark hair and glasses in a red top, a woman with short blonde hair in a pink top, a man with dark hair in a blue shirt, a man with dark hair in a dark sweater, and a man with a white beard in a dark suit.

The ODonnell Consent Decree:

- *Misdemeanor Bail Reform:* In Harris County, secured money bonds are no longer required for most misdemeanor cases under the court rule adopted as part of the settlement of the *ODonnell v. Harris County* case. Most people are released promptly without a hearing.
- *Bail Options Unchanged for Cases with Public Safety Concerns:* For misdemeanors presenting public safety risks (e.g., repeat DWIs, family violence, prior bond violations or outstanding warrants), arrestees are not automatically released. They get a hearing at which magistrates have the usual options to require financial bonds, protective orders, pretrial supervision requirements, and GPS monitoring.
- *Better Bail Hearings:* Defense attorneys now represent people at bail hearings. Previously they had no defense at these hearings. Judges also must give greater attention in deciding on bail requirements.

Major Consent Decree Accomplishments:

- *First Public Meeting:* Harris County's Justice Administration Department held its first official public meeting regarding the ODonnell Consent Decree at which the Monitors presented the First Report. (The Monitors also presented the Report to the Commissioner's Court, and at a series of additional presentations to community groups and stakeholders.)
- *Training:* VERA Institute of Justice conducted the first trainings on the Consent Decree to public defenders, prosecutors, hearing officers, judges, and other county officials.
- *Revised Pretrial Hearing Form:* Criminal Court Judges developed and approved a set of redesigned misdemeanor pretrial hearing forms that better reflect the Consent Decree provisions and progress, which we believe will improve both the quality and efficiency of rulings at misdemeanor pretrial hearings, and promote fuller compliance with Rule 9.
- *Discovery:* In an important accomplishment, pretrial services records and criminal history records are now electronically provided to defense counsel before misdemeanor pretrial hearings, as required by the Consent Decree.
- *Court Appearance Policy:* The new court appearance and rescheduling procedures set out in the Consent Decree began full operation in the misdemeanor courts, providing a clearer set of options for people with court dates, and electronically recording court appearance types. A vendor was selected to research the primary causes of court non-appearance.
- *Indigent Defense:* A vendor was selected to evaluate Harris County's systems of indigent defense. A director for the new Office of the Managed Assigned Counsel was also hired to oversee attorneys appointed to represent indigent clients.

Our Findings:

- Little to no change in repeat offending:
 - A gradual decline in repeat offending rates across the entire 2015-2019 time period, based on numbers of repeat-offense cases.
 - Slightly declining rates of individual people arrested for misdemeanors who repeat-offend in each year from 2015 to 2019 (from 23.4% in 2015 to 20.5% in 2019).
 - A slight increase in the share of cases associated with a new felony case (from 10.7% in 2015 to 11.4% in 2019.)
 - Only about 1% of those arrested for a misdemeanor offense in 2019, were re-arrested on four or more separate occasions within 365 days, a rate that has not substantially changed from 2015 to 2019.
- A steady reduction in numbers of misdemeanor filings: 45,000 filings in 2020 down from 60,000 filings in 2015, likely due in part to Harris County DA's Office diversion programs.
- A geographic concentration of misdemeanor cases in a few low-income neighborhoods.
- An overall decrease in the duration of pretrial detention: Defendants spending two days or less in jail before release 86% in 2020, up from 80% in 2017
- Little change in the sex and racial distribution of misdemeanor defendants from 2015 to 2019. A gradually increasing share of Latinx misdemeanor defendants.

More Findings:

- Increasing numbers of cases in categories not entitled to immediate release, with domestic violence misdemeanor cases increasing by more than 50% between 2017 and 2020.
- Reduced reliance on secured financial bonds:
 - 14% of misdemeanor cases had a secured money bond in 2020, down from 92% in 2015.
 - The cost of surety bonds paid is 60% lower (from \$2,500 to \$1,000 in 2020) and the median cash bond has declined by 80% (from \$500 to \$100 in 2020).
 - \$13 million in secured bonds paid in 2020, down from \$135 million in 2015.
 - \$1 million paid to bond companies in 2020 in low-level misdemeanor cases, down from \$4.4 million in 2016.
- People with mental health issues and homeless are twice as likely to be re-arrested.
 - 99% of misdemeanor defendants are released from pretrial detention within a few days.
 - A small percentage of cases await release for three months or longer. These longest-held cases include more people with mental illness or homelessness, with holds, warrants, or assaultive misdemeanor charges. Yet after months-long jail stays the majority end in dismissal or acquittal. More investigation is needed to understand if barriers to release might be addressed to resolve these cases more efficiently.

Community Working Group

- **Asst. Chief Hiram Contreras**—Retired Asst. Chief HPD and Retired U.S. Marshall
- **Thao Costis**—President and CEO of SEARCH, faith-based nonprofit to assist homeless people
- **J. Allen Douglas**—Executive Director and General Counsel Downtown Redevelopment Authority
- **Guadalupe Fernandez**—Tahirih Justice Center, Policy and Advocacy Manager, Houston Office, advocate for immigrant female survivors of domestic violence
- **Jay Jenkins, J.D.**—Texas Criminal Justice Coalition
- **Frances Isbell**—Health Care for the Homeless-Houston
- **Terrence “TK” Koontz**—Texas Organizing Project, formerly incarcerated community leader
- **Johnny N. Mata**—Presiding Officer, Greater Houston Coalition for Justice
- **Sr. Maureen O’Connell, M.S.W.**—former Executive Director of Angela House (facility for transitioning women after incarceration)
- **Asst. Chief Timothy Oettmeier, Ph.D.**—Retired Exec. Asst Chief Houston Police Department
- **Sybil Sybille**—Texas Advocate for Justice Fellow, military veteran and formerly incarcerated comm
- **Tara Grigg Green, J.D.**—Foster Care Advocacy Center Texas, Executive Director



Garrett & Thompson - Monitoring Pretrial Reform in Harris County

Figure 1: Number of Misdemeanor Cases by Year

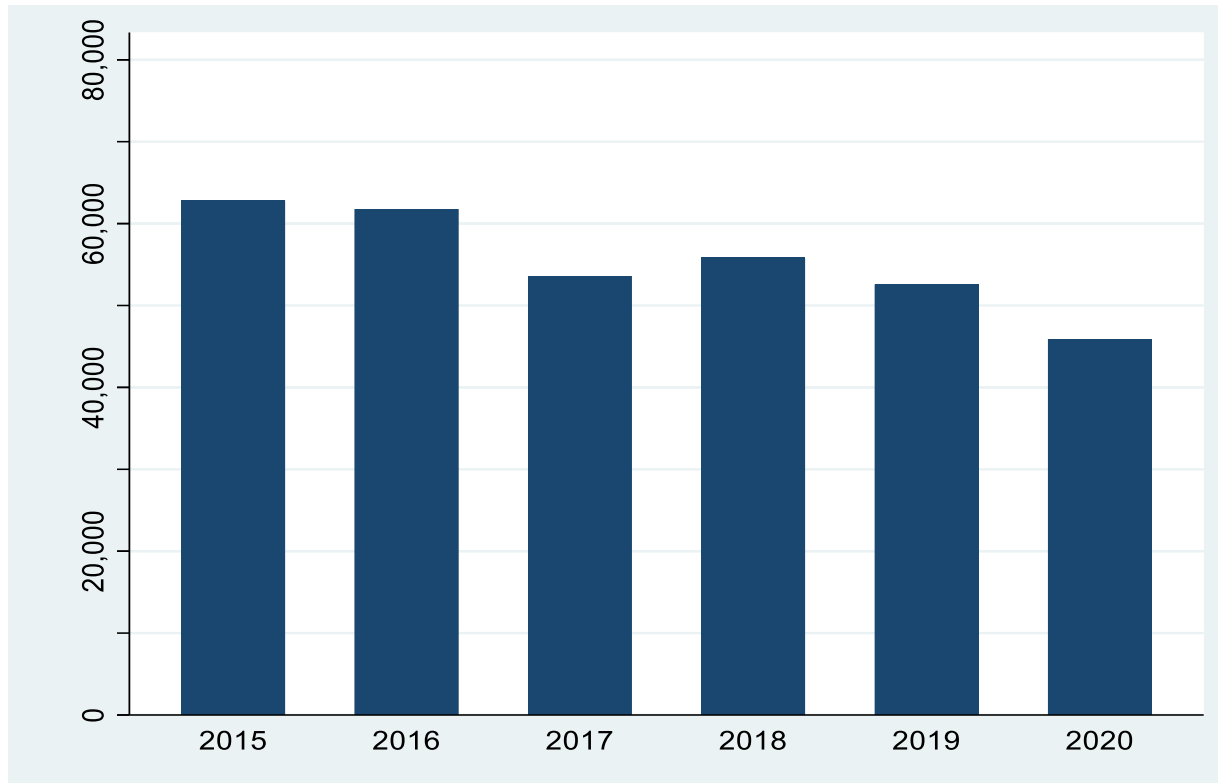


Figure 19: Share of Misdemeanor Cases with a New Case Filed within 90, 180, and 365 Days

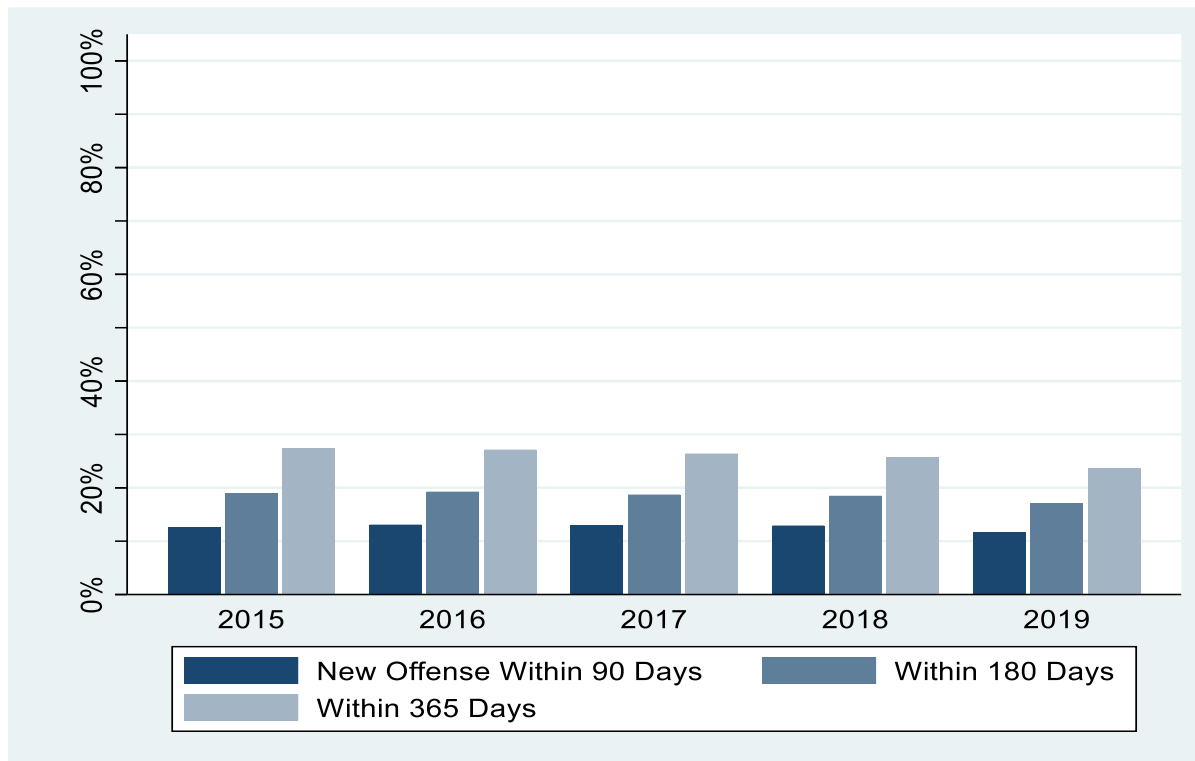


Figure 20: Share of Misdemeanor Cases with a New Felony Case Filed within 90, 180, and 365 Days

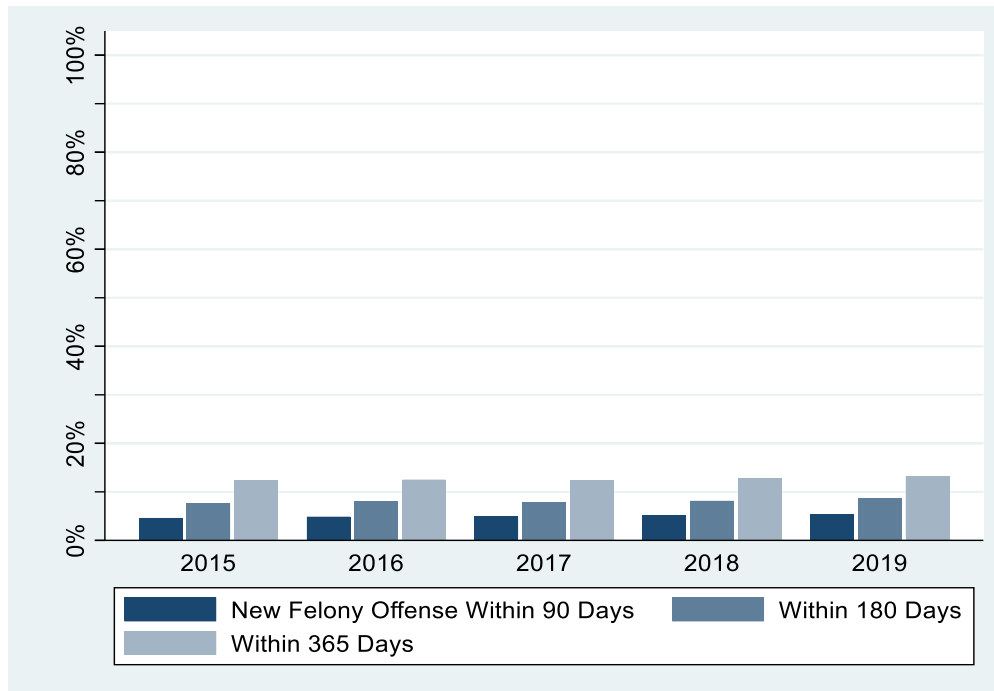


Figure 21: Share of Misdemeanor Arrestees with a New Case Filed within 365 Days

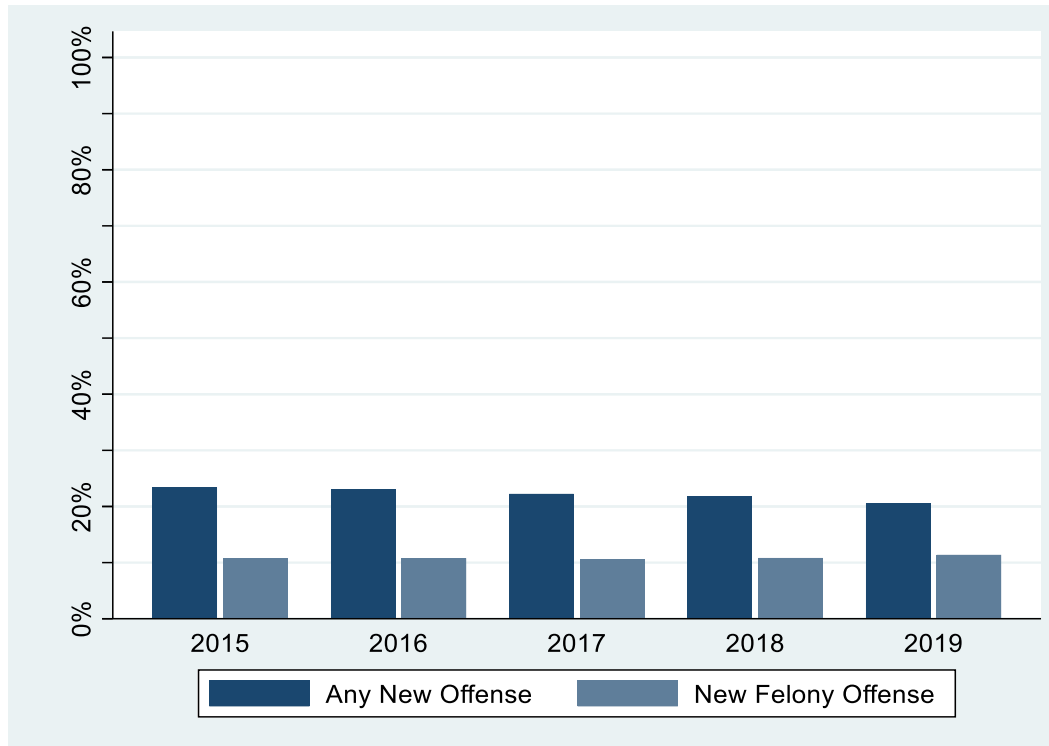


Figure 22: Shares of Misdemeanor Cases with Defendants who are Homeless or Have Known Mental Health Problems

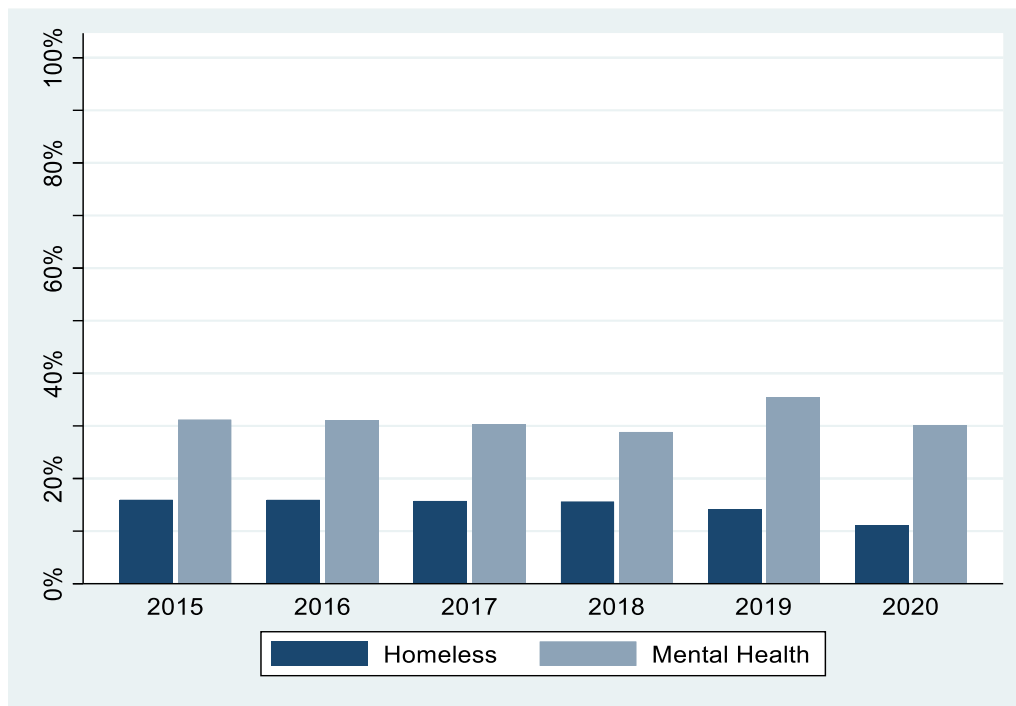


Figure 23: Share of Misdemeanor Arrestees Experiencing Homelessness with a New Case Filed within 365 Days

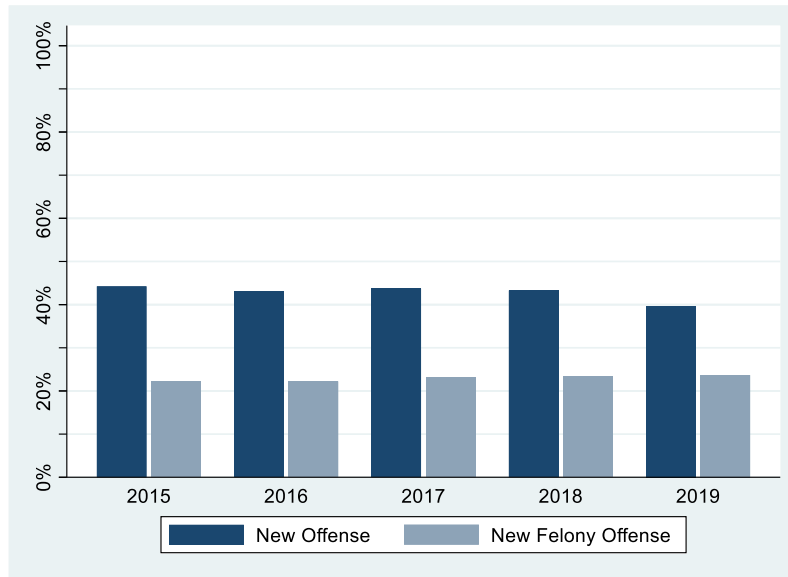
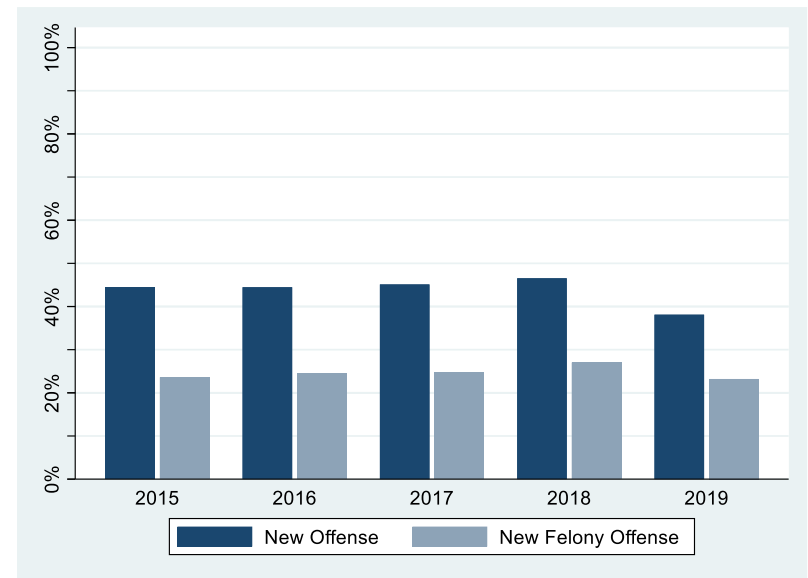


Figure 24: Share of Misdemeanor Arrestees with a New Case Filed within 365 Days, Arrestees with a Mental Health Problem Only



Share of Misdemeanor Cases by the Duration of Pre-trial Detention

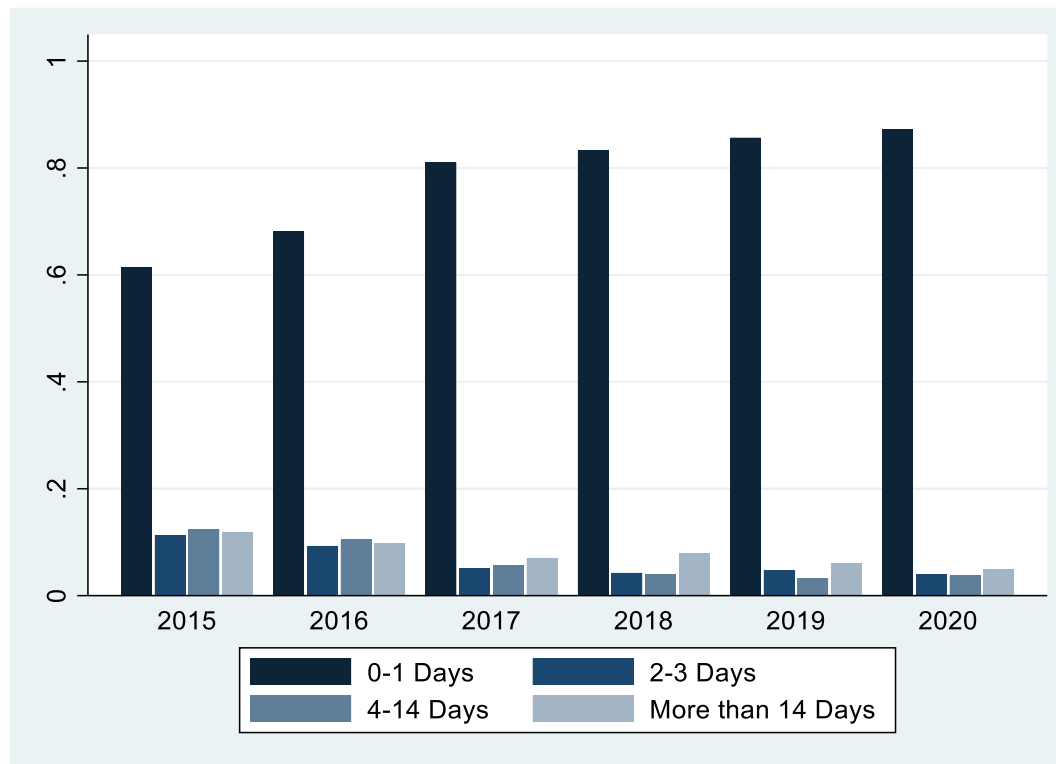


Figure 3: Sex Distribution of Misdemeanor Defendants

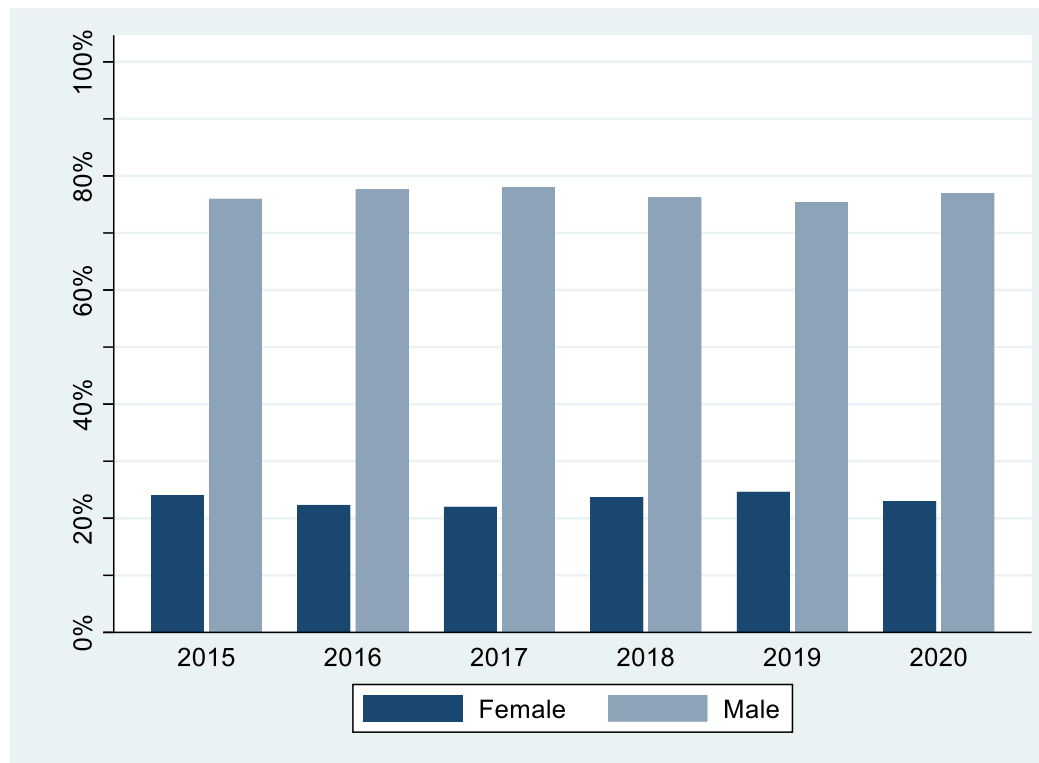


Figure 4: Racial Distribution of Misdemeanor Defendants

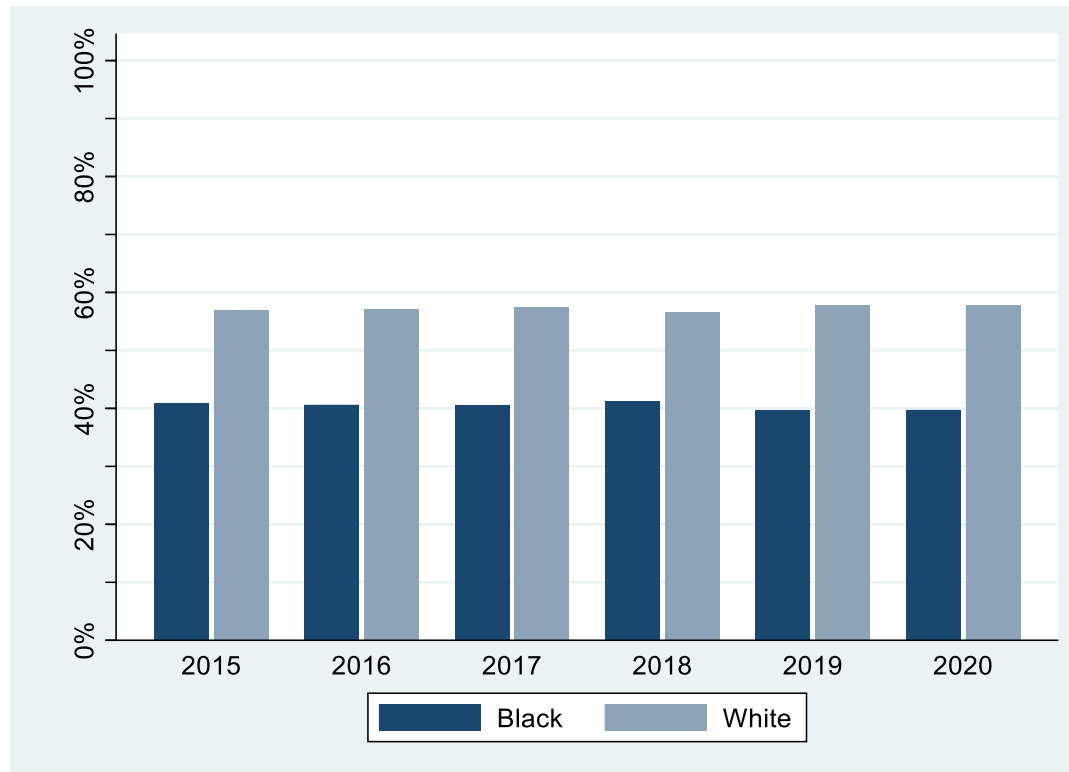


Figure 5: Ethnic Distribution of Misdemeanor Defendants

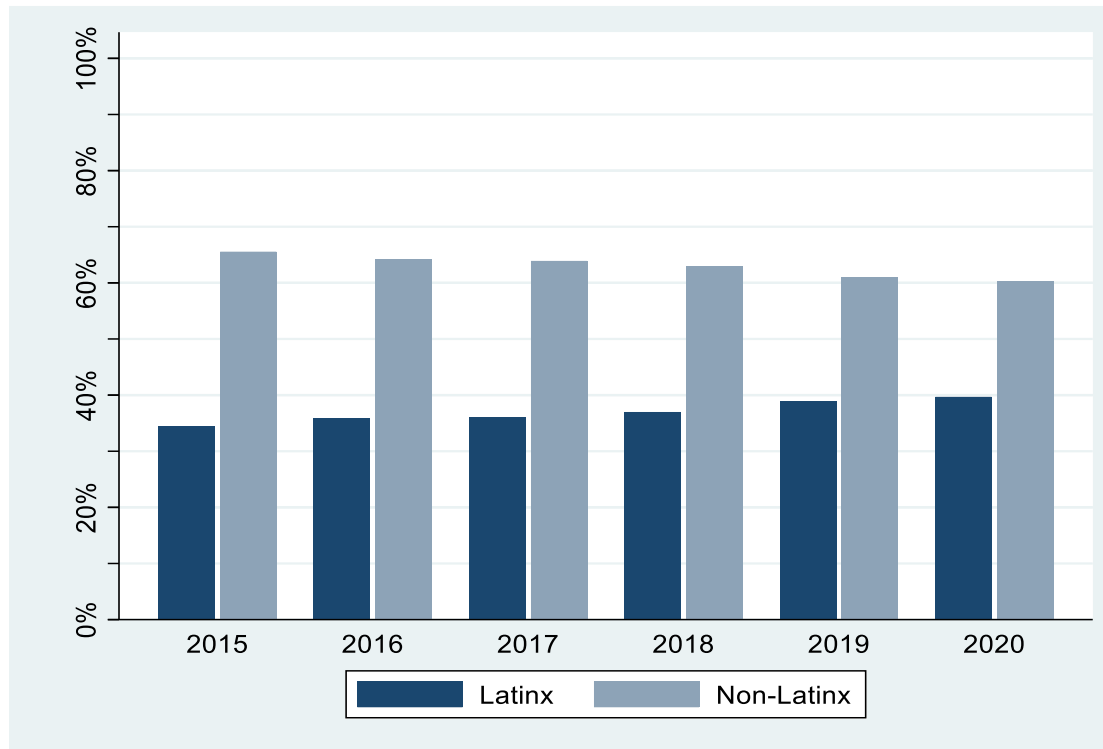


Figure 6: Number of Carve-out Cases

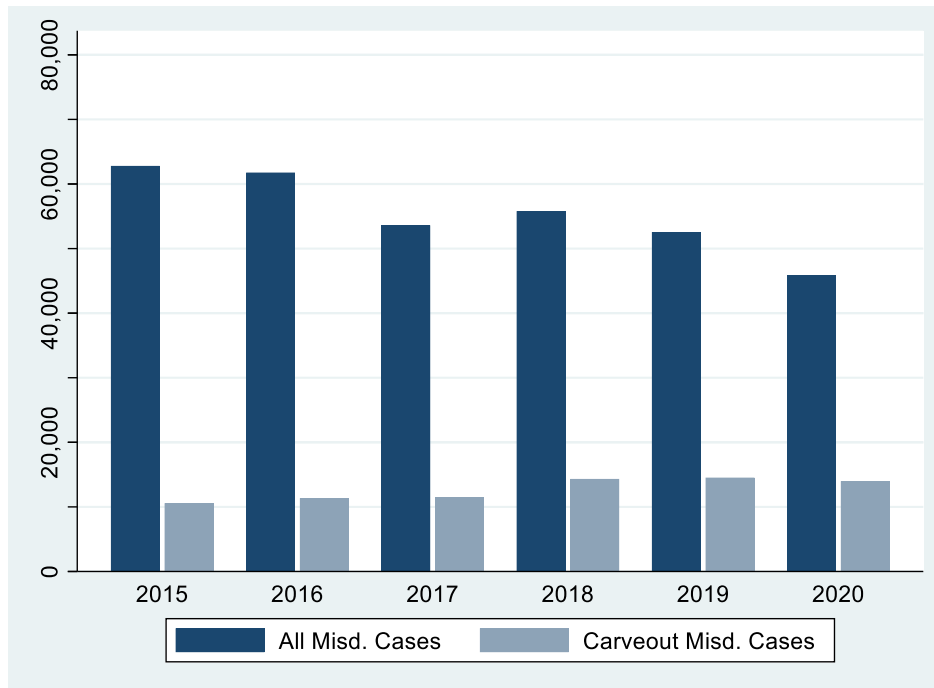


Figure 7: Number of Carve-out Cases, by Category

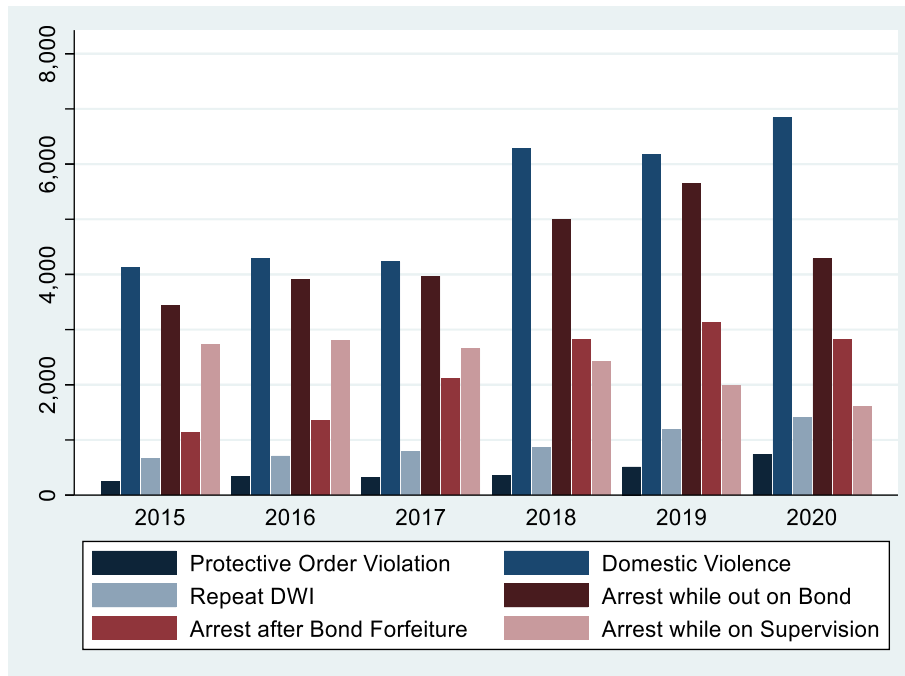


Figure 11: Duration of Pretrial Detention

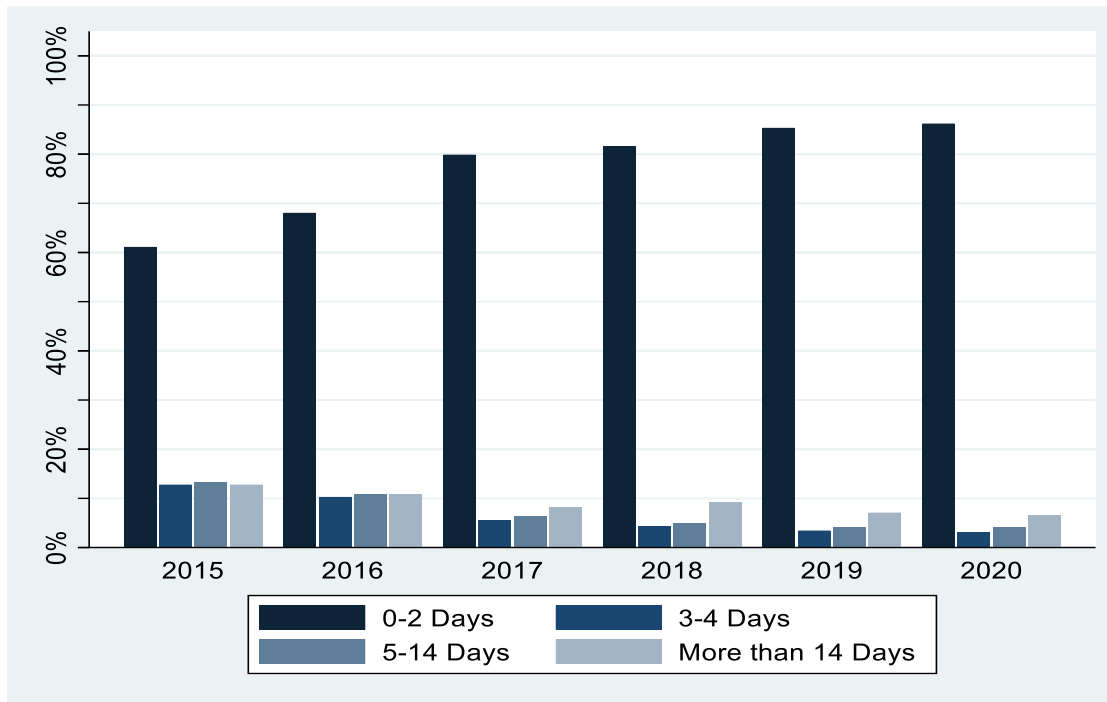
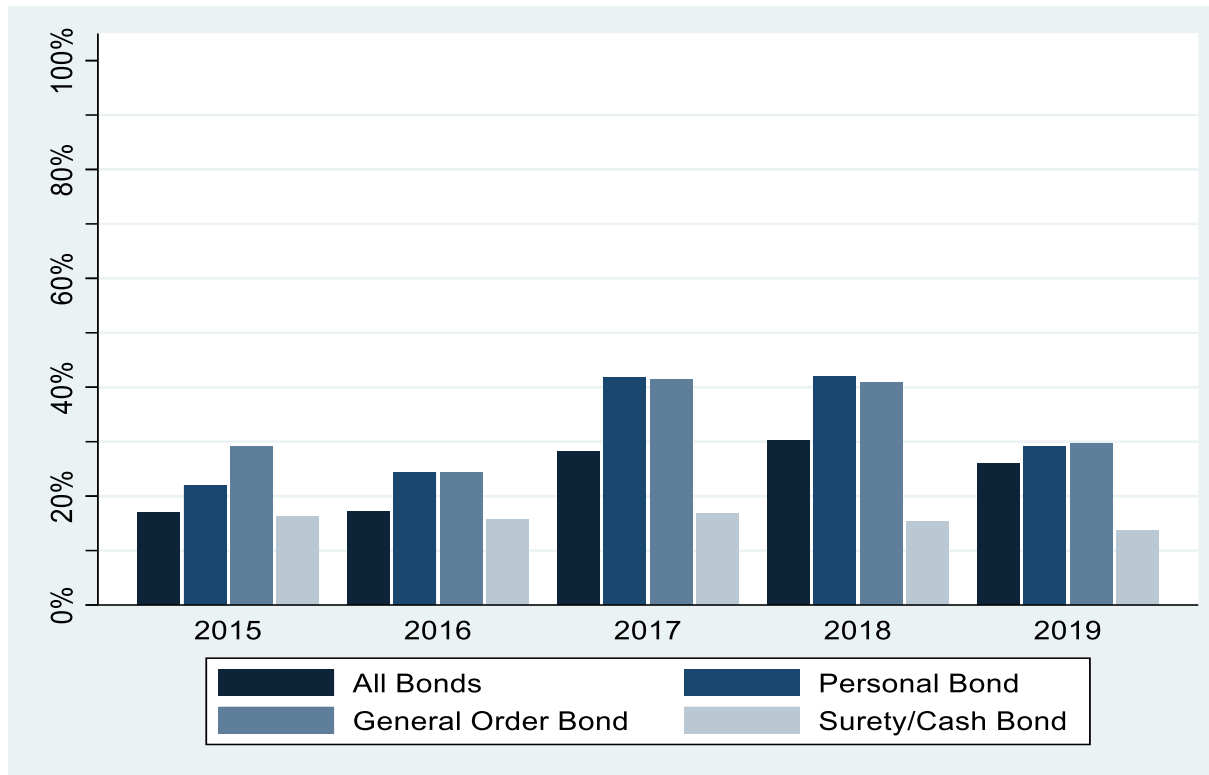


Figure 15: Share of Bond Failures within 365 Days





Office of the Harris County Attorney

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ODonnell Consent Decree Implementation

Working with stakeholders to ensure:

- **Constitutional and transparent pretrial release and detention system;**
- **Safeguard arrestee equal protection and substantive due process rights;**
- **Ensure public safety, access to information and systemic transparency.**





ODonnell Consent Decree Implementation

County Attorney's Office Collaborates with the Purchasing Department for all request for proposals, including:

- **Holistic Defense Evaluation;**
- **Harris County Compliance Training;**
- **Updating the Court Notification System;**
- **Mitigation of Court Nonappearance Study.**

ODonnell Consent Decree Implementation

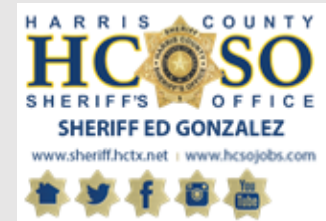
Provided legal consultation for:

- **Implementation of discovery before 15.17 hearings;**
- **Updates to the court notification system;**
- **Database updates;**
- **Dissemination of information to stakeholders relating to unsecured general order bonds.**

OFFICE OF THE
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CHRISTIAN D. MENEFFEE



Harris County Sheriff's Office



Victoria Jimenez
Director of Legal Services

Harris County Criminal Courts at Law



Harris County Criminal Courts at Law

Judge Sedrick T. Walker, II

Presiding Judge of the Harris County
Criminal Courts at Law



Questions?

THANK YOU



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